

**ORDINANCE NO. 10 , 2004**  
**(AMENDING AND RE-ENACTING ORDINANCE NO. 12, 1999)**

**AN ORDINANCE TO AMEND AND RE-ENACT THE ORDINANCE OF THE  
TOWN COUNCIL OF THE TOWN OF WISE, VIRGINIA,  
ELECTING TO ENFORCE THE MAINTENANCE OF EXISTING STRUCTURES  
PROVISIONS OF THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE  
(USBC) ESTABLISHING THE REGULATIONS GOVERNING THE MAINTENANCE  
OF ALL EXISTING BUILDINGS AND STRUCTURES; TO BE KNOWN AS THE  
PROPERTY MAINTENANCE CODE OF THE TOWN OF WISE,  
VIRGINIA; REPEAL OF PREVIOUS ORDINANCES**

**BE IT ORDAINED AND ENACTED**, pursuant to Virginia Code Sections 36-103, 36-105, 36-106, 1.13.39.2, and 13 VAC 5-62-420, that Ordinance No. 12, 1999, with any amendments, be changed, amended, and re-enacted as follows:

**SECTION 1. MAINTENANCE OF EXISTING STRUCTURES PROVISIONS OF THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE AND ELECTION FOR ITS ENFORCEMENT.**

That a certain document, a copy of which is on file in the office of the Town Manager of the Town of Wise, Virginia, being marked and designated as *The Maintenance of Existing Structures Provisions of the Virginia Uniform Statewide Building Code* (Part III, Chapter 1) (as adopted by the Virginia Board of Housing and Community Development) shall be known as ***The Property Maintenance Code of the Town of Wise, Virginia***. The Town of Wise elects to enforce the maintenance of existing structures provisions thereof for the maintenance of existing structures and equipment. The provisions contained in Part III, Chapter 1 (USBC) are elected to be enforced and this Ordinance requires compliance with any and all maintenance provisions of this part of this chapter of the USBC. Each and all of the regulations, provisions, penalties, conditions, model codes and standards, and terms of same are hereby referred to and elected to be enforced.

**SECTION 2. ORDINANCE REPEALED.**

The previous "ORDINANCE OF THE TOWN OF WISE, VIRGINIA ADOPTING THE BOCA BUILDING MAINTENANCE CODE" enacted November 24, 1986 and the previous Ordinance No. 11, 1998 adopted October 27, 1998 are both hereby repealed.

**SECTION 3. INTENT: FULL ELECTION**

It is the intent of this ordinance to elect to enforce all the maintenance of existing structures provisions as contained in the Virginia Uniform Statewide Building Code as adopted by the Virginia Board of Housing and Community Development.

#### **SECTION 4. INTENT: OTHER ORDINANCES.**

It is the intent of this ordinance that the provisions of this ordinance shall be enforced together with, separate from, or in addition to, all other building and nuisance state statutes and town ordinances. For example, without limitation, Virginia Code Section 15.2-900, 15.2-906, or 15.2-1115.

#### **SECTION 5. SAVING CLAUSE.**

That nothing in this ordinance or in the maintenance of existing structures provisions hereby referenced for enforcement shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, notices given, or any cause or causes of action acquired or existing, under the ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance. Any notice given under Ordinance No. 12, 1999, and any amendments, shall be notice under this ordinance.

#### **SECTION 6. DATE OF EFFECT AND FUTURE AMENDMENTS.**

That the Clerk of Council shall certify to the adoption of this ordinance. This ordinance shall take effect and be in force from and after its adoption. Pursuant to Virginia Code Section 1.13.39.2 future amendments by the Virginia Board of Housing and Community Development (VBHCD) to the maintenance of existing structures provisions of the Virginia Uniform Statewide Building Code shall be effective under this ordinance on the date prescribed by the VBHCD.

#### **SECTION 7. PENALTIES.**

Pursuant to 36-106 it shall be unlawful for any owner or any other person, firm, or corporation, on or after the effective date of this Ordinance, to violate any provisions of this Ordinance. Any such violation shall be deemed a misdemeanor and any owner or any other person, firm, or corporation convicted of such a violation shall be punished by a fine of not more than \$2,500.00.

In addition, each day the violation continues after conviction or the court-ordered abatement period has expired shall constitute a separate offense. If the violation remains uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in order to comply with the Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within six months of the date of conviction. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. Any person convicted of a second offense committed within less than five years after a first offense under this chapter shall be punished by a fine of not less than \$1,000 nor more than \$2,500. Any person convicted of a second offense committed within a period of five to ten years of a first offense under this chapter shall be punished by a fine of not less than \$500 nor more than \$2,500. Any person

convicted of a third or subsequent offense involving the same property committed within ten years of an offense under this chapter after having been at least twice previously convicted shall be punished by confinement in jail for not more than ten days and a fine of not less than \$2,500 nor more than \$5,000, either or both. No portion of the fine imposed for such third or subsequent offense committed within ten years of an offense under this chapter shall be suspended.

**SECTION 8. CODE OFFICIAL.**

The Wise County Building Department shall be the local enforcing agency and the Building Maintenance Official for the administration, supervision, and enforcement of the provisions of this ordinance.

**SECTION 9. APPEAL.**

The Wise County Board of Appeals for the enforcement of the Virginia Uniform Statewide Building Code Ordinance shall be the Board of Appeals for this ordinance.

**SECTION 10. SEVERABILITY.**

Should any provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

VOTING "AYE": Clifton Carson, Caynor Smith, Jr., Jarrad Addison, Erra Sutherland, Luther Adkins

VOTING "NAY": None

ABSENT: None ABSTENTIONS: None

ENACTED AND EFFECTIVE this 27th day of July, 2004.

TOWN OF WISE, VIRGINIA

Clifton Carson  
MAYOR

ATTEST:

Delia M. Bryant  
CLERK OF COUNCIL